



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

SERVED MAR 20 1996

Issued by the Department of Transportation
on the **14th day of March, 1996**

Complaints of

AMERICAN AIRLINES, INC.
DELTA AIR LINES, INC.

FINE AIRLINES, INC.
NORTHWEST AIRLINES, INC.
THE FLYING TIGER LINE INC.
(FEDERAL EXPRESS CORPORATION)
TOWER AIR, INC.
UNITED AIR LINES, INC.

Dockets 47956
OST-95-805
OST-95-683
OST-95-300
OST-95-828
41653
OST-95-803
48457
OST-95-830

under 49 U.S.C. Sections 41304 and 41310 of the
Transportation Code

ORDER TERMINATING PROCEEDINGS

The captioned carriers have filed separate complaints under 49 U.S.C. section 41310 (formerly section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (IATFPCA), as amended), against various foreign governments and/or foreign air carriers. Each of the complaints is described in the attached appendix. The complaints now either have been resolved, or have become moot, and each of the carriers has filed a motion to withdraw its respective complaint.¹ In these circumstances, and taking into account the Department's objectives under IATFPCA, we have determined that it is consistent with the public interest to terminate the captioned proceedings.

¹ In Docket 47956, American Airlines, Inc., also filed a motion to withdraw its petition for reconsideration of the Department's decision in the captioned docket.

ACCORDINGLY,

1. We grant the motion filed by each of the following carriers to withdraw, without prejudice, its complaint filed in the captioned docket:

American Airlines, Inc.	Docket 47956
Delta Air Lines, Inc.	Docket OST-95-805
Delta Air Lines, Inc.	Docket OST-95-683
Fine Airlines, Inc.	Docket OST-95-300
Northwest Airlines, Inc.	Docket OST-95-828
The Flying Tiger Line Inc. ² (Federal Express Corporation)	Docket 41653
Tower Air, Inc.	Docket OST-95-803
United Air Lines, Inc.	Docket 48457
United Air Lines, Inc.	Docket OST-95-830

2. We terminate the proceedings captioned in paragraph 1, above;

3. We will serve a copy of this order on the parties to the captioned dockets of this order, the U.S. Department of State (Office of Aviation Negotiations); the Federal Aviation Administration (AFS-200); the Assistant U.S. Trade Representative, the Office of the United States Trade Representative; the United States Department of Commerce (Office of Service Industries); the Ambassadors of Italy, India, Japan, Ecuador, and Brazil in Washington, D.C.; and the Air Transport Association.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web at
<http://www.dotinfo/general/orders/aviation.html>.*

² Originally, this complaint was filed by Federal Express' predecessor company, The Flying Tiger Line Inc.

<u>Docket</u>	<u>Description of Complaint</u>
47956 <u>Italy,</u>	<u>American Airlines, Inc., vs. the Government of the Republic of</u> <u>The Directorate General of Civil Aviation of the Ministry of</u> <u>Transport, Societa Esercizi Aeroportuali, and Alitalia Linee Aeree</u> <u>Italiane S.p.A.,</u> filed January 21, 1992. American alleged that, at Milan's Malpensa Airport, the Government of Italy and SEA prohibited American from (1) using its own CRS (SABRE) at check-in facilities, and (2) self-handling. American stated that these restrictions denied American a fair and equal opportunity to compete in the U.S.-Italy market. By Order 92-10-33, the Department approved American's complaint with respect to the CRS issues raised, but denied the complaint with respect to self-handling. On November 9, 1992, American filed a petition for reconsideration of Order 92-10-33, to the extent it denied the self-handling portion of the complaint. On October 4, 1995, American filed a motion for leave to withdraw its petition for reconsideration, stating that the SEA has now agreed that American may engage in those self-handling activities of interest at Malpensa. American states that, because the issues raised in its petition have now been resolved, the complaint proceeding should be closed.
OST-95- 805 India	<u>Delta Air Lines, Inc., vs. the Government of India,</u> filed November 8, 1995. Delta alleged that it was being denied the right under the U.S.-aviation agreement to operate daily service to Bombay, by reason of the Government of India, and instrumentalities thereof, to provide Delta usable slots to operate daily service to Bombay. On November 22, 1995, Delta withdrew its complaint, stating that the Government of India issued slots to permit Delta to operate daily service at Bombay.
OST-95 683	<u>Delta Air Lines, Inc., vs. the Government of the Federal Republic of</u> <u>Germany and Flughafen Frankfurt Main AG,</u> filed December 29, 1993. Delta alleged that the Government of Germany and the Flughafen Main AG (FAG) had denied Delta the right to perform its own ground handling at Frankfurt. On February 27, 1996, Delta withdrew its complaint, stating that the issues raised by Delta in the complaint have now been resolved to Delta's satisfaction.

<u>Docket</u>	<u>Description of Complaint</u>
OST-95-300	<p><u>Fine Airlines, Inc., vs. Aeroservicios Ecuatorianos, C.A. and the Government of Ecuador</u>, filed January 9, 1995. Fine alleged that the Government of Ecuador refused to permit Fine to operate U.S.-Ecuador services expressly authorized by the U.S.-Ecuador aviation agreement. On December 13, 1995, Fine withdrew its complaint, stating that it had received a permit that it believes should resolve its outstanding difficulties in operating services to and from Ecuador.</p>
OST-95-828 was	<p><u>Northwest Airlines, Inc., vs. the Government of India</u>, filed November 13, 1995. Northwest alleged that the Government of India engaging in unfair, unreasonable, and discriminatory practices by preventing Northwest from exercising its bilateral rights to serve Delhi and Bombay, India. On December 2, 1995, the United States and India signed a Memorandum of Consultations which specifically provided for Northwest's services. On December 7, 1995, Northwest withdrew its complaint.</p>
41653	<p><u>The Flying Tiger Line Inc., vs. the Government of Brazil and Varig, S.A.</u>, filed August 17, 1983. Flying Tigers alleged that certain Brazilian laws and regulations worked to favor the movement on Brazilian carriers of airfreight traffic between the United States and Brazil. Subsequent to the filing of this complaint, Flying Tigers was acquired by Federal Express Corporation. On December 15, 1995, Federal Express filed a motion to withdraw the complaint on the ground of mootness.</p>
OST-95-803	<p><u>Tower Air, Inc., vs. the Government of India</u>, filed November 8, 1995. Tower alleged that the Government of India was imposing unjustifiable, unreasonable, and discriminatory restrictions upon the access of Tower flights to Bombay, India, in contravention of the U.S.-India aviation agreement, by prohibiting Tower from operating a second weekly flight to Bombay. On November 28, 1995, Tower withdrew its complaint, stating that India has now issued Tower slots at Bombay that will permit Tower to operate two weekly flights.</p>

Docket

Description of Complaint

48457

United Air Lines, Inc., vs. the Government of Japan, filed November 5, 1992. United alleged that Japan had denied United's twice-weekly New York-Tokyo-Sydney schedules in violation of an agreement between the countries under which Japan agreed to accept such filings and allow the schedules to take effect on the date proposed. On October 11, 1994, United withdrew its complaint, stating that it was no longer pursuing operations beyond Japan to Australia.

**OST-95
830**

United Air Lines, Inc., vs. the Government of India, filed November 13, 1995. United alleged that the Government of India was engaging in unfair, unreasonable, and discriminatory practices by preventing United from effectively exercising its bilateral rights to serve Delhi, India. On December 4, 1995, United withdrew its complaint, stating that India had now issued to United the airport facilities and other approvals necessary to allow United to begin services to Delhi.